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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/522,118

01/24/2005

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EXAMINER

SCHWARTZ, DARREN B

ART UNIT

PAPER NUMBER

4193

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/522,118 | Applicant(s) BORDES ET AL. | |
| | Examiner DARREN B. SCHWARTZ | Art Unit 4193 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01-24-05 03-16-05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: page 1, line 21 discloses "centre." This should be changed to "center." This misspelling is cited multiple times within the specification; page 1, line 24 discloses "programme." This should be changed to "program." This misspelling is cited multiple times within the specification.

Appropriate correction is required.

Claim Objections

2. Claims 1, 4, 6, 7, 11 and 12 are objected to because of the following informalities: the claims recites "centre" and should be corrected to "center." The claims further recite "programme" and should be corrected to "program." Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claim 1-3, 6, 7 and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Fukami et al (U.S. Pat Pub 2002/0080971 A1), hereinafter referred to as Fukami.

Re claim 1: Fukami teaches a method of distributing encrypted portions of an audiovisual program to user terminals in which the successive portions of the program are encrypted with the aid of different keys (¶6, ¶456-¶457), wherein it consists, on initiation, from a user terminal (¶4, ¶41-42), of a telephone communication with a call center [Fig 1, elt 100: Broadcast apparatus] (¶521), in transmitting in sequence (¶162, ¶369) from this call center and during the telephone communication the keys to the user terminal [Fig 1, elt 200: Reception apparatus] (Fig 1: elt TS; Fig 2; ¶162), doing so in a manner synchronized with the distribution of the successive encrypted portions of the program (¶163-¶171).

Re claim 2: Fukami teaches the telephone communication utilizes an Internet protocol (¶521).

Re claim 3: Fukami teaches synchronization time codes are transmitted with the keys to the user terminal (¶162, ¶369).

Re claims 6, 11 and 12: Fukami teaches a method of decoding, a decoder and a decryption routine of audiovisual programs, in which successive portions of a program are decrypted with the aid of a succession of different keys (¶6, ¶456-¶457), wherein it is designed to be connected up, by way of a telephone communication interface to a call center [Fig 1, elt 100: Broadcast apparatus] (¶521) and to recover the successive keys in sequence during the communication with the call center (Fig 12, elts S31, S32 & S33; ¶222) and to do

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so in a manner synchronized with the decryption of the successive portions of the program (Fig 15; ¶113), the said decoder preferably being able to decrypt encrypted program portions distributed according to a method in accordance with Claim 1 (¶222).

Re claim 7: Fukami teaches the decoder is designed to recover synchronization time codes from the call center in association with the keys (¶233-¶234)

Re claim 10: Fukami teaches the communication interface utilizes an Internet protocol (¶521).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukami et al (U.S. Pat Pub 2002/0080971 A1), hereinafter referred to as Fukami, in view of Ginter et al (U.S. Pat 5982891 A), hereinafter referred to as Ginter.

Re claim 4: Fukami teaches all the limitations of claim 1 as previously discussed.

However, Fukami is silent to on completion of the telephone communication with a user terminal, a duration of telephone communication is

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determined in the call center so as to draw up a bill corresponding to the reception of the program by the user terminal.

Ginter teaches on completion of the telephone communication with a user terminal, a duration of telephone [metering: col 14, lines 49-62] communication is determined in the call center so as to draw up a bill corresponding to the reception of the program by the user terminal (col 132, lines 12-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Fukami reference to meter and bill user usage, as taught by Ginter, for the purpose of providing moneys to content distributors.

Re claim 5: Fukami teaches all the limitations of claim 1 as previously discussed.

However, Fukami is silent to the call center is a center for receiving telephone calls of a telephone operator.

Ginter the call center is a center for receiving telephone calls of a telephone operator (col 161, 13-26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Fukami reference to receive customer telephone calls, as taught by Ginter, for the purpose of providing efficient customer technical support and expediting good customer relations.

Re claim 8: Fukami teaches all the limitations of claim 5 as previously discussed.

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However, Fukami is silent to the communication interface is a telephone modem.

Ginter teaches the communication interface is a telephone modem (Fig 7, elt 618).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Fukami reference to use a telephone “modem,” as taught by Ginter, for the purpose of providing cable and VOD via a telephone network.

Re claim 9: The combination of Fukami and Ginte teach the communication interface is an ADSL modem (¶521). It was commonly known to one of ordinary skill at the time the invention was made to use an asymmetric distribution system (i.e. the Internet) for the purpose of providing high download rates with less than efficient (i.e. bandwidth) upload rate.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren B. Schwartz whose telephone number is 571-270-3850. The examiner can normally be reached on Monday-Friday 8:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Long Nguyen can be reached on 571-272-3787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS

/Taghi T. Arani/
Supervisory Patent Examiner, Art Unit 4193
5/2/2008